

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

RAYMOND FRILEY, #K4969

PETITIONER

VS.

CIVIL ACTION NO. 5:05-cv-124 (DCB) (MTP)

JACK PARKER, Warden; and
JIM HOOD, Attorney General

RESPONDENTS

JUDGMENT OF DISMISSAL

This cause is before the Court pursuant to the Court's Order Adopting Report and Recommendation **(docket entry 29)**. In said Order, the Court found that the petitioner had failed to exhaust his state court remedies as to twenty (20) of his grounds for relief in his habeas corpus petition. He had, however, arguably exhausted his state court remedies as to four (4) other grounds. The Court granted the petitioner leave to amend his petition to delete his unexhausted grounds, so that he might proceed as to the four remaining grounds. The petitioner was warned that should he fail to amend his petition, the Court would consider dismissal of his habeas petition.

Friley has failed to amend his petition to delete his unexhausted grounds. Instead, he filed an Objection to Order Adopting Report and Recommendation and Motion For Reversal **(docket entries 31, 32)**, in which he states that his claims are not subject to state procedures, and that he seeks a ruling on all grounds raised in his petition. The respondents have filed a Motion to Reconsider **(docket entry 33)** in which they re-urge the Court to

dismiss Friley's petition for failure to exhaust. In response, the petitioner filed a Motion for Judgment and Order of Immediate Release and Discharge and Objection to Motion to Reconsider **(docket entries 34, 35)** in which he again urges the Court to consider his petition in its entirety.

In light of Friley's refusal to amend his petition, the Court finds that the respondents' motion to dismiss for failure to exhaust should be granted. Accordingly,

IT IS HEREBY ORDERED AND ADJUDGED that the petitioner's Objection to Order Adopting Report and Recommendation and Motion For Reversal **(docket entries 31, 32)** is DENIED;

FURTHER ORDERED AND ADJUDGED that the petitioner's Motion for Judgment and Order of Immediate Release and Discharge and Objection to Motion to Reconsider **(docket entries 34, 35)** is DENIED;

FURTHER ORDERED AND ADJUDGED that the respondents' Motion to Reconsider **(docket entry 33)** is MOOT;

FURTHER ORDERED AND ADJUDGED that the respondents' motion to dismiss for failure to exhaust **(docket entry 8)** is GRANTED;

FURTHER ORDERED AND ADJUDGED that this action is dismissed without prejudice for failure to exhaust.

SO ORDERED, this the 21st day of June, 2007.

s/ David Bramlette
UNITED STATES DISTRICT JUDGE